

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**

ORD2019-020

4
5 **AN ORDINANCE AMENDING TITLE 8, TRAFFIC AND VEHICLES, OF THE CITY OF**
6 **SOUTH FULTON CODE OF ORDINANCES, TO BE KNOWN AS THE REN'GIA**
7 **MAJORS SPEED ENFORCEMENT CAMERA ORDINANCE; AUTHORIZING THE**
8 **USE OF AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES IN SCHOOL**
9 **ZONES WITHIN THE CITY; PROVIDING FOR RULES OF OPERATION,**
10 **ADMINISTRATIO**
11 **AND ENFORCEMENT AND FOR OTHER PURPOSES**
12

13 **(Sponsored by Councilwoman Willis)**
14

15 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
16 organized and existing under the laws of the State of Georgia;
17

18 **WHEREAS**, the duly elected governing authority of the City, is the Mayor and
19 Council thereof ("City Council");

20 **WHEREAS**, the protection of children and prevention or motor vehicle related
21 deaths, injuries and property damage is of the upmost importance to the City Council;
22

23 **WHEREAS**, Article IX, Section 2 of the Georgia Constitution, O.C.G.A. §36-35-3
24 and Section 1.12(b)(18) of the City Charter authorize the City to adopt ordinances and
25 regulations for the protection and promotion of the public safety, health, and welfare of
26 its residents, and to regulate the operation of motor vehicles and control traffic upon and
27 across the streets and roads of the City;
28

29 **WHEREAS**, in 2018, the Georgia General Assembly enacted additional laws
30 governing excess speeding in designated School Zones
31

32 **WHEREAS**, the City Council finds that excessive speeding and disregard of
33 traffic control devises in school zones has increased the number of traffic related
34 injuries and deaths in Georgia;
35

36 **WHEREAS**, pursuant O.C.G.A. 40-8-14, the City is authorized to ~stablish and
37 enact an automated traffic enforcement safety device program in properly marked
38 School Zones (the area within 1,000 feet of the boundary of any public or private
39 elementary or secondary school) one hour before, during, and one hour after (1) the
40 normal hours of school operation, and (2) programs for care and supervision of students
41 before school, after school, or during vacation periods, for speeding violations in excess
42 of ten miles per hour over the speed limit; and
43

44 **WHEREAS**, this Ordinance addressing excessive speeding in school zones is in
45 the best interests of the health and general welfare of the City, its residents and general
46 public.

47 **THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS** as
48 follows:

49 **Section 1.** The City of South Fulton Code of Ordinances, Title 8, Traffic and
50 Vehicles, is hereby amended by creating a new Chapter 3, Automated Traffic
51 Enforcement in School Zones, which shall read as follows:

52
53 **TITLE 8. – TRAFFIC AND VEHICLES**

54 **CHAPTER 3. - Automate Traffic Enforcement in School Zones**

55 **Sec. 8-3000 - Title.**

56 This ordinance shall be known as the “**Ren’gia Majors Speed Enforcement Camera**
57 **Ordinance.**”

58 **Sec. 8-3001 - Definitions.**

59 For the purposes of this Article, the following terms, phrases and their derivatives shall
60 have the meanings given herein:

61
62 a) "Agent" means a person or entity who is authorized by a law enforcement agency or
63 governing body to administer the procedures contained here and (i) provides services to
64 such law enforcement agency or governing body; (li) operates, maintains, leases, or
65 licenses a video recording device; or (iii) is authorized by such law enforcement agency
66 or governing body to review and assemble the recorded images captured by the
67 automated traffic enforcement safety device for review by a peace officer.

68
69 b) "Automated Traffic Enforcement Safety Device" means a speed detection device
70 that: (i) is capable of producing photographically recorded still or video images, or both,
71 of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another
72 vehicle, including an image of such vehicle's rear license plate; (ii) is capable of
73 monitoring the speed of a vehicle as photographically recorded pursuant to
74 subparagraph (i) of this paragraph; and (iii) indicates on each photographically recorded
75 still or video image produced the date, time, location, and speed of a photographically
76 recorded vehicle traveling at a speed above the posted speed limit within a marked
77 School Zone.

78
79 c) "Owner" means the registrant of a motor vehicle, except that such term shall not
80 include a motor vehicle rental company when a motor vehicle registered by such
81 company is being operated by another person under a rental agreement with such
82 company.

83
84 d) "School Zone" means the area within 1,000 feet of the boundary of any public or
85 private elementary or secondary school.

86
87 e) "Recorded Images" means still or video images recorded by an Automated Traffic
88 Enforcement Safety Device.

89
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92
93 **Sec. 8-3002 - Speed Monitoring Systems Authorized.**

94 Speed camera enforcement, using Automated Traffic Enforcement Safety Devices are
95 hereby authorized within School Zones in the City between the hours of a.m. and
96 ___p.m., Monday through Friday.
97

98 **Sec. 8-3003 - Administration**

- 99 a) The law enforcement agency, or Agent on behalf of the law enforcement agency,
100 operating an Automated Traffic Enforcement Safety Device provided for under
101 Official Code of Georgia Annotated Code Section 40-14-18 shall maintain a log
102 for the Automated Traffic Enforcement Safety Device attesting to the
103 performance of such device's self-test at least once every 30 days and the
104 results of such self-test pertaining to the accuracy of the Automated Traffic
105 Enforcement Safety Device. Such log shall be admissible in any civil
106 enforcement proceeding for a violation issued pursuant O.C.G.A. § 40-14-18.
107 The law enforcement agency, or Agent on behalf of the law enforcement agency,
108 operating an Automated Traffic Enforcement Safety Device shall perform an
109 independent calibration test on the automated traffic enforcement safety device
110 at least once every 12 months. The results of such calibration test shall be
111 admissible in any court proceeding for a violation issued pursuant O.C.G.A. § 40-
112 14-18.
113
114 b) Prior to the placement of a device within a School Zone, each school within
115 whose School Zone such Automated Traffic Enforcement Safety Device is to be
116 placed shall first apply for and secure a permit from the Georgia Department of
117 Transportation for the use of such Automated Traffic Enforcement Safety Device.
118 Such permit shall be awarded based upon need. The Georgia Department of
119 Transportation shall promulgate rules and regulations for the implementation of
120 this paragraph.
121
122 c) If an Automated Traffic Enforcement Safety Device is moved to or placed in a
123 location where an Automated Traffic Enforcement Safety Device had not
124 previously been moved to or placed in, no citation shall be issued for a violation
125 recorded by that Automated Traffic Enforcement Safety Device until:
126
127 1) The City shall erect signs warning of the use of a stationary speed detection
128 device within the approaching School Zone. Such signs shall be at least 24 by
129 30 inches in area, shall be visible plainly from every lane of traffic, shall be
130 viewable in all traffic conditions, and shall not be placed in such a manner that
131 the view of such sign is subject to being obstructed by any other vehicle on
132 such highway. Such signs shall be placed within 500 feet prior to the warning
133 sign announcing the reduction of the speed limit for the school speed zone.
134 There shall be a rebuttable presumption that such signs are properly installed
135 pursuant to this Subsection at the time of any alleged violation under this
136 Article; and,

137
138 2) No citation shall be issued for the first 30 days after the first Automated Traffic
139 Enforcement Safety Device is introduced by a law enforcement agency within
140 a School Zone, but rather, a civil warning shall be issued for disregard or
141 disobedience of the speed limit within the School Zone.
142

143 d) A law enforcement agency authorized to enforce the speed limit of a School
144 Zone, or an Agent working on behalf of a law enforcement agency or governing
145 body, shall send by first class mail addressed to the owner of the motor vehicle
146 within thirty (30) days after obtaining the name and address of the owner of the
147 motor vehicle but no later than sixty (60) days after the date of the alleged
148 violation:
149

150 1) A citation for the alleged violation, which shall include the date and time of the
151 violation, the location of the infraction, the maximum speed at which such
152 motor vehicle was traveling in photographically recorded images, the
153 maximum speed applicable within such School Zone, the civil warning or the
154 amount of the civil monetary penalty imposed, and the date by which a civil
155 monetary penalty shall be paid;
156

157 2) An image taken from the photographically recorded images showing the
158 vehicle involved in the infraction;
159

160 3) A website address where photographically recorded images showing the
161 vehicle involved in the infraction and a duplicate of the information provided
162 tor in this paragraph may be viewed;
163

164 4) A copy of a certificate sworn to or affirmed by a certified peace officer
165 employed by a law enforcement agency authorized to enforce the speed limit
166 of the School Zone and stating that, based upon inspection of
167 photographically recorded images, the owner's motor vehicle was operated in
168 disregard or disobedience of the speed limit in the marked School Zone and
169 that such disregard or disobedience was not otherwise authorized by law;
170

171 5) A statement of the inference provided by Georgia law and of the means
172 specified therein by which such inference may be rebutted for such violations;
173

174 6) Information advising the owner of the motor vehicle of the manner in which
175 liability as alleged in the citation may be contested through an administrative
176 hearing before the City Municipal Court; and,
177

178 7) A warning that the failure to pay the civil monetary penalty or to contest
179 liability in a timely manner as provided for in Subsection (d) of this Code
180 section shall waive any right to contest liability.
181

- 182 e) Proof that a motor vehicle was operated in disregard or disobedience of the
183 speed limit of the marked School Zone shall be evidenced by photographically
184 recorded images. A copy of a certificate sworn to or affirmed by a certified peace
185 officer employed by a law enforcement agency and stating that, based upon
186 inspection of photographically recorded images, a motor vehicle was operated in
187 disregard or disobedience of the speed limit in the marked School Zone and that
188 such disregard or disobedience was not otherwise authorized by law shall be
189 prima-facie evidence of the facts contained therein.
190
- 191 f) Liability shall be determined based upon a preponderance of the evidence.
192 Prima-facie evidence that the vehicle described in the citation issued pursuant to
193 this Chapter was operated in violation of the speed limit of the School Zone,
194 together with proof that the defendant was, at the time of such violation, the
195 registered owner of the vehicle, shall permit the trier of fact in its discretion to
196 infer that such owner of the vehicle was the driver of the vehicle at the time of the
197 alleged violation. Such an inference may be rebutted if the owner of the vehicle:
198
- 199 1) Testifies under oath in open court or submits to the court a sworn notarized
200 statement that he or she was not the operator of the vehicle at the time of the
201 alleged violation; or,
202
- 203 2) Presents to the court a certified copy of a police report showing that the
204 vehicle had been reported to the police as stolen prior to the time of the
205 alleged violation.
206
- 207 g) A violation for which a civil warning or a civil monetary penalty is imposed
208 pursuant to this Chapter shall not be considered a moving traffic violation for the
209 purpose of points assessment under O.C.G.A. § 40-5-57. Such violation shall be
210 deemed noncriminal, and imposition of a civil warning or civil monetary penalty
211 pursuant to this Chapter shall not be deemed a conviction and shall not be made
212 a part of the operating record of the person upon whom such liability is imposed,
213 nor shall it be used for any insurance purposes in the provision of motor vehicle
214 insurance coverage.
215
- 216 h) If a person issued and mailed a citation pursuant to this Chapter fails to pay the
217 civil monetary penalty for the violation or has not filed a police report or notarized
218 statement pursuant to this Chapter in no less than 30 nor more than 60 days
219 after such mailing as determined and noticed by the law enforcement agency, the
220 agent or law enforcement agency shall send to such person by first class mail a
221 second notice of any unpaid civil monetary penalty, except in cases where there
222 is an adjudication that no violation occurred or there is otherwise a lawful
223 determination that no civil monetary penalty shall be imposed. The second notice
224 shall include all information required in this Chapter and shall include a new date
225 of return which shall be no less than 30 days after such mailing as determined
226 and noticed by the law enforcement agency. If such person notified by second
227 notice again fails to pay the civil monetary penalty or file a police report or

notarized statement pursuant this Chapter by the new date of return, such person shall have waived the right to contest the violation and shall be liable for the civil monetary penalty provided for under this Chapter except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. Notices mailed by first class mail pursuant to this Chapter shall be adequate notification of the fees and penalties imposed by this Chapter. No other notice shall be required for the purposes of this Chapter.

- i) The Municipal Court of South Fulton shall have jurisdiction over cases arising under this Chapter and shall be authorized to conduct an administrative hearing when timely requested by recipients of notice of violation pursuant to this Chapter and impose the civil monetary penalty provided for by this Chapter. Except as otherwise provided pursuant to Georgia law, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations under this Code Section shall apply to enforcement under this Chapter; provided however, that any appeal from Municipal Court shall be by application in the same manner as that provided O.C.G.A. § 5-6-35.
- j) If a violation has not been contested and the assessed penalty has not been paid, the Agent or City shall send to the person who is the registered owner of the motor vehicle a final notice of any unpaid civil monetary penalty authorized by this Chapter except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The notice shall inform the registered owner that the agent or governing body shall send a referral to the Department of Revenue if the assessed penalty is not paid within 30 days after the formal notice was mailed and that such referral shall result in the nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer of such motor vehicle within this state.
- k) The Agent or City shall send a referral to the Department of Revenue not sooner than 30 days after the final notice required this Chapter was mailed if a violation under this Chapter has not been contested and the assessed penalty has not been paid. The referral to the Department of Revenue shall include the following:
 - 1) Any information known or available to the Agent or City concerning the license plate number, year of registration, and the name of the owner of the motor vehicle;
 - 2) The date on which the violation occurred;
 - 3) The date when the notice required under this Chapter was mailed; and,
 - 4) The seal, logo, emblem, or electronic seal of the City.

- 274
275 l) A civil warning or civil monetary penalty under this Code Section on the owner of
276 a motor vehicle shall not be imposed if the operator of the vehicle was arrested
277 or issued a citation and notice to appear by a certified peace officer for the same
278 violation.
279

280 **Sec. 8-3004 - Violations and penalties.**

281 Any person who shall violate any provision of this Article shall be subject to the civil
282 penalties set forth O.C.G.A. § 40-14-18(b)(1), as amended, including a fine in the
283 amount of \$75 for a first violation and \$125.00 for a second or any subsequent violation,
284 in addition to fees associated with the electronic processing of such civil monetary
285 penalty which shall not exceed \$25.00. The money collected and remitted to the City
286 pursuant to this ordinance, excluding administrative and collection costs, shall be used
287 by the City to fund local law enforcement and/or public safety initiatives. This subsection
288 shall not preclude the future appropriation of a greater amount than that collected and
289 remitted under this subsection.
290

291 *****
292

293 **Section 2.** It is hereby declared to be the intention of the City Council that: (a) All
294 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were,
295 upon their enactment, believed by the City Council to be fully valid, enforceable and
296 constitutional.

297 (b) To the greatest extent allowed by law, each and every section, paragraph,
298 sentence, clause or phrase of this Ordinance is severable from every other section,
299 paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph,
300 sentence, clause or phrase of this Ordinance is mutually dependent upon any other
301 section, paragraph, sentence, clause or phrase of this Resolution.

302 (c) In the event that any phrase, clause, sentence, paragraph or section of this
303 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or
304 otherwise unenforceable by the valid judgment or decree of any court of competent
305 jurisdiction, it is the express intent of the City Council that such invalidity,
306 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
307 render invalid, unconstitutional or otherwise unenforceable any of the remaining
308 phrases, clauses, sentences, paragraphs or sections of the Ordinance.

309 **Section 3.** All Ordinance and Resolutions in conflict herewith are hereby expressly
310 repealed.

311 **Section 4.** The City Attorney, City Clerk and contracted City Codifier are authorized
312 to make non-substantive formatting and renumbering edits to this ordinance for
313 proofing, codification, and supplementation purposes. The final version of all
314 ordinances shall be filed with the clerk.

Section 5. The effective date of this Ordinance shall be on the date as set forth under Sec. 3.21 of the City Charter unless provided otherwise by applicable local, state and/or federal law.

THIS ORDINANCE adopted this 13th day of August 2019.

CITY OF SOUTH FULTON, GEORGIA


WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:


S. DIANE WHITE, CITY CLERK

APPROVED AS TO FORM:


EMILIA C. WALKER, CITY ATTORNEY



The foregoing Ordinance No. 2019-020 was moved for approval by Councilmember Willis. The motion was seconded by Councilmember Gumbs, and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	<u> </u>	<u> </u>
Mark Baker, Mayor Pro Tem	<u> X </u>	<u> </u>
Catherine Foster Rowell	<u> X </u>	<u> </u>
Carmalitha Lizandra Gumbs	<u> X </u>	<u> </u>
Helen Zenobia Willis	<u> X </u>	<u> </u>
Gertrude Naeema Gilyard	<u> X </u>	<u> </u>
Rosie Jackson	<u> X </u>	<u> </u>
khalid kamau	<u> X </u>	<u> </u>